THE TRAVANCORE SALE OF GOODS ACT (AMENDMENT) BILL.

Mr. K. G. Kunjukrishna Pillai: Sir, I move that the Travancore Sale of Goods Act (Amendment) Bill as passed by the Assembly be taken into consideration.

Mr. A. Lakshminarayana Ayyar: I second it.

Mr. K. G. Kunjukrishna Pillai: This amendment is intended to regulate the relation between the seller and buyer when an Excise duty is imposed after the contract is agreed upon. If a duty is imposed after the contract is entered upon, the price can be regulated in a particular manner by the section of the Bill. This section has been introduced in the British Indian Act and also in the Cochin Act. It is a beneficial provision that will keep the balance between the seller and the buyer.

Clauses 1 and 2.

The question that clauses 1 and 2 form part of the Bill was put and carried.

The clauses were added to the Bill.

Preamble and Title.

The question that the Preamble and Title form part of the Bill was put and carried.

The Preamble and Title were added to the Bill.

Mr. K. G. Kunjukrishna Pillai: I move that the Bill be passed.

Mr. A. Lakshminarayana Ayyar: I second it.

The motion was put and carried and the Bill was passed.

THE TRAVANCORE HIGH COURT ACT (AMENDMENT) BILL.

Mr. K. G. Kunjukrishna Pillai: Sir, I move that the Travancore High Court Act (Amendment) Bill as passed by the Assembly be taken into consideration.

Mr. A. Lakshminarayana Ayyar: Sir, I second it.

Mr. Kochikkal P. Balakrishnan Tampi: Sir, I oppose it primarily for this reason. All these years I have been repeating the cry that when a legislation is enacted in one House, the other House should be given some time to think over it. If that proposition has been opposed by any Government member or by the Chair there would not have been so much difficulty. Every time that proposition was accepted by the present Legal Remembrancer's predecessors and we always had the sympathy from the Chair also. But every time the fact remains that soon after a legislation is passed in the other House it is brought to this House.

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President: The honourable member may feel assured that hereafter the policy that will be followed with regard to the introduction of Bills in the Legislature will be this. Half the number of Bills will be introduced in this House and the other half in the other House, so that there should not be any question of difference made in regard to the matter.

Mr. Kochikkal P. Balakrishnan Tampi: Sir, that is not my point.

President: The second point is that these particular Bills were passed by the Lower House and the proposal at first was that they should come up for consideration before this House on the first day of the meeting. But it was decided that they need be brought to this House for consideration today or tomorrow so that there may be more time for the honourable members to study the Bills. But if honourable members want more time for consideration of the Bills they can move for an adjournment. I fully realise the honourable member's point. Normally speaking, in the case of ordinary Bills, there should not be too small interval between the passing of the Bill in one House and the introduction of it in the other House. Both the Houses should be given equal time for the consideration of the Bills. So far as this Bill is concerned, it is a matter for the consideration of the House to decide whether they want more time or not.

Mr. Kochikkal P. Balakrishnan Tampi: I am asking for an assurance from the Government that hereafter there will be sufficient interval between the passing of a Bill in one House and the introduction of it in the other House. There should be at least an interval of one session.

President: I think it is a useful suggestion and will be kept in view.

So far as this matter is concerned the Government took the line that there are certain reasons for what may be called the speedy exercise by the High Court of certain very salutary jurisdiction and that is why it was brought up here. I am entirely in the hands of the House. Those who want an adjournment of the consideration of Bills will please raise their hands. (There was no opposition)

Mr. K. G. Kunjukrishna Pillai: Sir, before I go into the merits of the Bill I should inform the House that personally I am also as anxious as anybody else in this House to see that the same earnestness and care is given to the Bills as on any other matter.

But the time at my disposal as has been explained by the President is short and I crave the indulgence of the House for bringing this Bill at this juncture. Sir, there are one or two points

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in this Bill which I want to explain and make clear to this House and I hope that may remove some of the apprehensions if any entertained here. This Bill is intended primarily to invest the High Court with what is called the extraordinary original jurisdiction. There has been some amount of confusion in the opposition to the Bill elsewhere. I am saying that deliberately, Sir, because one of the points of opposition was to the effect that nowhere else in the world is original jurisdiction invested in the highest appellate tribunal. That is a point which taken from very high quarters and after a study of the law in England, I am able to say that every High Court in England has original jurisdiction including the Privy Council. In the case of the Privy Council, it is not exercised very often. The House of Lords is vested with the power of original jurisdiction. The House of Commons too, when it sits as a court exercises that power.

Mr. Kochikal P. Balakrishnan Tampi: Does it ever sit?

Mr. K. G. Kunjukrishna Pillai: Yes. The High Court of Judicature and the Courts of Appeal and every other court is invested with the power of original jurisdiction. In fact, there is no superior English court which is not invested with some sort of original jurisdiction. Same is the case with the Federal Court and all the British Indian High Courts in India. In certain High Courts, there is what is called the extraordinary original jurisdiction. In the case of certain others, there is both the ordinary original jurisdiction and extraordinary original jurisdiction. That is my first point.

Another point of opposition to this Bill is that this must be a consolidating Act investing the power with original jurisdiction. That is a position which I cannot understand. If the honourable members of this House say that the High Court must be given this original jurisdiction, then all that this Bill says is until such time as the Government think fit, it may be vested with a lesser extraordinary original jurisdiction. All that is meant is jurisdiction to try an original suit. It means, not when the suit is filed in that court but on transfer to that court. The difference is this. The High Court has the discretion to take up any case and try it. A party can not file a case before the High Court, as in the case when ordinary original jurisdiction exists.

Mr. V. Sankara Menon: Has the party a right to move the High Court?

Mr. K. G. Kunjukrishna Pillai: The fundamental basis of the Bill is that any party may bring the matter to the attention of the High Court.

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Mr. G. Narayana Aiyar: Should there not necessarily be a motion in the High Court by the party concerned?

Mr. K. G. Kunjukrishna Pillai: It may be made or even without that, High Court can take action suo motto.

Another point brought forward is, that this amendment is not sufficient, and that the High Court must be given specific powers, for issuing the writ of mandamus, certiorari etc. That matter was made very clear in the other House. The Government expect that when all the High Courts in the rest of India enjoy certain powers, our High Court too should not be shut out from saying that it had no powers and therefore the Government are of opinion that the High Court may be given all sorts of power in every case under the original jurisdiction, and that is the only object of this Bill. Any further consolidation of the Bill is another matter. With these comments, I commend the Bill for the consideration of the House.

Mr A. Lakshminarayana Ayyar: I second it.

President: I think I ought to explain again the object of the Bill so that there might be no apprehensions in any quarter. The object of the Government is to make the Travancore High Court as fully empowered to deal with matters of importance as any other High Court in India. It is doubtful whether under the powers now vesting in the High Court they have jurisdiction to issue writs of mandamus certiorari etc., though I understand there are two opinions on the subject, even with the present Statutory powers. Those powers are of the greatest importance to the subject. As was recently seen, it was by a writ of mandamus that the whole question of the powers or the exercise of jurisdiction in regard to various Acts passed by the Central Legislature and by His Excellency the Viceroy, was discussed in the various Courts. Without this extraordinary jurisdiction, it is not possible for the High Court in India to deal with the matter and questions of the extraordinary jurisdiction which specially arise in one class of cases which are of fundamental significance. Supposing a very important case is instituted in Quilon or in Alleppey or in Nagercoil involving issues of great importance and it is necessary to avoid delay, it ought to be possible for the High Court to remove that case for trial before itself and to give a speedy determination and the advantage of the best legal talents available in the country.

Let me illustrate the position by two or three cases. There is a very important Mutt known as the Sivagiri Mutt in which the Ezhava community is very largely interested. The whole of that religious and semi-secular organisation of that community is involved in that suit. That suit was filed 14 years ago and th

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issues have not yet been settled. The community has been dissipating its energies in the suit and in the mutual wrangles which follow the suit. It is needless to remind my Christian colleagues of this honourable House what happened with regard to the Partiarch's claim in the Syrian Church case. Over and over again, by review and re-review, and suits and new suits and revisions, the matter has been manipulated and now after a recent decision we are exactly where we were, when I undertook that case, when I argued that case about 20 years ago in these courts. Now, very rarely but in such important cases, the High Court should be empowered to take up the matter and try it. As happened in the Beasant trial, the case which should normally have taken 3 or 4 years, was disposed of within 6 months having been dealt with by the High Court and by the High Court on appeal and by the Privy Council. Though very rarely exercised, this extraordinary jurisdiction is of the greatest importance. It was concluded by this Government that the High Court should not be deprived of that power, whether it exercises its power too frequently or whether it should exercise it, is a different matter. But this High Court should have every power that any other High Court has for purposes of doing justice between party and party. It was for that reason that these jurisdictions are sought to be invested.

The question before the House is that Clauses 1 to 6 stand part of the Bill.

The motion was put and carried.

The Clauses were added to the Bill.

The question that the Preamble and the Title do stand part of the Bill was next put and carried.

They were added to the Bill.

Mr. K. G. Kunjukrishna Pillai: I move that the Bill be passed.

Mr. A. Lakshminarayana Ayyar: I second it;

The motion was put and carried.

The Bill was passed.

THE CIVIL PROCEDURE CODE (AMENDMENT) BILL.

Mr. K. G. Kunjukrishna Pillai: Sir, I move that the Civil Procedure Code Amendment Bill as passed by the Assembly be taken up for consideration. It is necessary to regulate the procedure in civil cases when original jurisdiction is being exercised by the High Court. This is only a consequential Bill to the previous one to carry out the intentions of the High Court Act Amendment Bill.

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